

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

JANE DOE 2,)	
)	
Plaintiff,)	No.: 3:23-cv-00582
)	
v.)	
)	Judge Aleta A. Trauger
JIMMIE ALLEN, et al.)	
)	
Defendant.)	

**PLAINTIFF’S MOTION TO DISMISS JIMMIE ALLEN’S COUNTERCLAIM FOR
CONVERSION**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Plaintiff Jane Doe respectfully moves this Court for an order dismissing with prejudice the Counterclaim for conversion filed by Defendant Jimmie Allen (“Allen”). In support of her motion, Plaintiff states as follows:

1. Under Tennessee’s choice-of-law principles, Nevada law applies to tort claims. Here, Defendant alleges that Plaintiff took Defendant’s cellphone which was recording her in a state of undress and during sexual acts in a hotel room in Las Vegas, Nevada. Accordingly, Nevada law applies.

2. Defendant Allen fails to state a plausible claim for conversion upon which relief may be granted where Plaintiff took the cellphone and turned it over to the police as evidence of a crime.

3. Conversion is “a distinct act of dominion wrongfully exerted over another’s personal property in denial of, or inconsistent with his title or rights therein or in derogation, exclusion, or defiance of such title or rights.” *Wantz v. Redfield*, 326 P.2d 413, 414 (Nev. 1958) (citing 53 Am. Jur. 819). “Moreover, an act, to be a conversion, must be essentially tortious; a

conversion imports an unlawful act, or an act which cannot be justified or excused in law.”

Wantz, 326 P.2d at 414 (quoting 53 Am. Jur. 820).

4. Taking disputed property for the purpose of turning it over to the courts or law enforcement for investigation or adjudication is not conversion. *Wantz*, 326 P.2d at 414.

5. The counterclaim for conversion should also be dismissed because victims of crimes are protected from intimidation and harassment under the Nevada Constitution. Allowing a perpetrator to sue a crime victim who turns evidence over to the police for conversion would violate the Nevada Constitution and public policy. Nev. Const., Art. I, § 23. *See also* Nev. Rev. Stat. § 200.377 (“The Legislature finds and declares that: 1. This State has a compelling interest in assuring that the victim of a sexual offense...: (a) Reports the sexual offense...to the appropriate authorities; (b) Cooperates in the investigation and prosecution of the sexual offense...; and (c) Testifies at the criminal trial of the person charged with committing the sexual offense....”).

WHEREFORE, for the reasons more fully set forth in her Memorandum In Support of Motion to Dismiss, Plaintiff respectfully requests that this Court grant her motion to dismiss Defendant Jimmie Allen’s counterclaim with prejudice and grant such other and further relief as this Court deems appropriate.

Dated: August 1, 2023

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CERTIFICATE OF SERVICE

I, Elizabeth A. Fegan, an attorney, affirm that the foregoing was filed on August 3, 2023 on ECF, which automatically served all counsel of record.

Dated: August 1, 2023

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